

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

241

CRR-4538-2017 (O&M)

Date of Decision:17.07.2018

Rajpal Singh

.....Petitioner

Versus

State of U.T., Chandigarh

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Balraj Gujjar, Advocate,
for the petitioner.

Mr. Manish Jain, APP, UT, Chandigarh.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Section 401 Cr.P.C., assailing the judgment dated 21.11.2017 passed by learned Additional Sessions Judge, Chandigarh, whereby his appeal against the judgment of conviction and order of sentence dated 13.02.2017 passed by learned Judicial Magistrate 1st Class, Chandigarh, was dismissed. Vide judgment dated 13.02.2017, the learned Magistrate had convicted the petitioner under Sections 279/304-A IPC and sentenced him.

Briefly stated, FIR No.61 dated 09.02.2007 under Sections 279/304-A IPC, Police Station Manimajra, Chandigarh, was registered against the petitioner. The FIR was registered at the behest of complainant-Narinder Partap Chauhan. As per the complainant, on 09.02.2007 at about 5.40 PM, when the complainant was going to

Panchkula from Chandigarh on his motorcycle and was standing at the Railway Lights Point due to red light signal, he noticed that from Panchkula side one truck and motorcycle were coming towards Chandigarh. Motorcyclist was driving his vehicle on his correct side, but the truck driver was driving his vehicle in a rash and negligent manner, at a high speed. The truck hit the motorcyclist. Due to this impact, the motorcyclist fell down on the road along with the motorcycle and became unconscious. The complainant noted down the number of the offending truck bearing registration No.HR-68-3884. The police vehicle reached at the spot and took the injured to the hospital. The accident occurred due to rash and negligent driving on the part of the truck driver who disclosed his name as Rajpal. During the treatment, the injured died. The deceased was identified as Rajesh @ Akram Chauhan, resident of H.No.47, Phase-I, Bapu Dham Colony, Sector 26, Chandigarh.

The trial court held the petitioner guilty and convicted him under Sections 279, 304-A IPC. The petitioner was sentenced as under:-

<u>Convicted u/s</u>	<u>R.I.</u>	<u>Fine, if any</u>
279 IPC	Three months	Rs.200/- & 5 days rigorous imprisonment in default
304-A IPC	One year	Rs.1,000/- & 15 days rigorous imprisonment in default

The aforesaid conviction and sentence was challenged by

way of appeal. However, the learned Additional Sessions Judge,

Chandigarh, maintained the conviction and sentence of the petitioner and dismissed the appeal.

Dissatisfied with the aforesaid order, the petitioner has filed the present criminal revision petition assailing the judgments passed by the courts below.

On 18.05.2018, when this matter came up for hearing before this Court, a Coordinate Bench has passed the following order:-

“Having heard arguments on both sides, with the learned counsel for the petitioner repeating to the effect that there was a discrepancy in the statement of the eye witness, Mr. Jain, learned Addl. Public Prosecutor, on the other hand, pointed out that as a matter of fact there was no discrepancy whatsoever, with the possibility of there being a translation error, the said witness (PW-6) having positively testified in terms of his complaint, to the effect that he was standing at the traffic lights on the railway point junction, going to Panchkula from Chandigarh, with the truck driven by the petitioner having come from the opposite side and having hit the motorcycle standing there at the traffic point juncture on the opposite side.

He further submits that simply non-examination of the investigating officer in the aforesaid circumstances would not be fatal to the case of the prosecution.

The trial court having recorded a specific finding that PW-6 was neither a stock witness nor was he a relative of the deceased, with that finding not having been assailed by the learned counsel for the petitioner, and it further having been recorded that nothing could be discerned from his testimony that it was not a truthful testimony, I see no reason to interfere with the judgments of the learned courts below as regards the merits of the

case.

As regards the issue of reduction of the quantum of sentence, though otherwise there would be no reason to reduce the quantum of sentence, the petitioner having been sentenced to undergo rigorous imprisonment for one year for the commission of an offence punishable under Section 304-A IPC, and for three months for the commission of offence an punishable under Section 279 IPC, the only mitigating factor possibly would be if the victims' family has been monetarily “compensated” in any proceedings before the Motor Accident Claims Tribunal.

Learned counsel for the petitioner would take instructions in that regard.

Adjourned to 30.05.2018.”

Thereafter, the petitioner moved CRM-1215-2018 with the prayer that the sentence so awarded be allowed to run concurrently. The trial court though has convicted the petitioner for the offences charged but instead of allowing the sentence to run concurrently has ordered that the sentence shall run consecutively. Learned counsel for the petitioner states that considering the nature of offence, the courts below should have allowed the sentence to run concurrently.

Learned Counsel appearing on behalf of UT, Chandigarh, has argued that the court below has already been very liberal and has sentenced the petitioner for one year only, though in view of Section 304-A IPC, the Court could have sentenced him upto two years. Therefore, there is no reason to allow the sentence to run concurrently.

Section 427 Cr.P.C. deals with the sentence of offenders.

Section 427 Cr.P.C. reads as under:-

“427(1). When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence: Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.”

This Court finds that considering the nature of offence, the sentence deserves to be run concurrently. As against the awarded sentence of one year, the petitioner has already remained in custody for about 10 months (09 months and 28 days). The respondent-State has not filed any appeal for enhancement of sentence.

Accordingly, the conviction of the petitioner is maintained and sentence is ordered to run concurrently.

The CrI. Revision Petition stands disposed of accordingly.

July 17, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No